
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

UNITED STATES OF AMERICA

versus

MINH TRONG NGUYEN (2)

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CRIMINAL ACTION NO. 4:13-CR-48

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**


Came for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636. On August 30, 2013, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendation that the Defendant's Motion to Suppress (Dkt. #32) should be denied.

Defendant objects to the findings of the Magistrate Judge, arguing that the Report and Recommendation does not "adequately analyze the facts and law because the affidavit was a bare-bones affidavit, and but-for this bare-bones affidavit, the police would not have been at Defendant's home to conduct a dog-sniff to begin with" (Dkt. #48 at 2). Defendant's argument is incorrect. The police conducted the dog-sniff at Defendant's residence prior to obtaining the search warrant. The fact that the dog alerted during the dog-sniff search is included in the affidavit, and is part of the basis for the issuing magistrate's probable cause determination, as well as the law enforcement officers' good faith reliance on the search warrant. As discussed by the Magistrate Judge, the existing Fifth Circuit case law at the time the warrant was issued allowed a dog-sniff alone to serve as the basis for finding probable cause existed to search a defendant's home (Dkt. #47 at 7). This Court agrees that the law enforcement officers relied in good faith on existing Fifth Circuit law, and, thus, the good-faith exception should apply.

The Court, having made a *de novo* review of Defendant's objections, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court. It is accordingly

ORDERED that the Defendant's Motion to Suppress (Dkt. #32) is **DENIED**.

SIGNED at Beaumont, Texas, this 2nd day of October, 2013.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE